

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOHN RIGGINS,

Plaintiff,

v.

Case Number 05-10033

Hon. David M. Lawson

Magistrate Judge Charles E. Binder

SAGINAW COUNTY,
CITY OF SAGINAW,
SAGINAW POLICE DEPARTMENT,
MARK LIVELY, Detective,
A. GEORGE BEST, II, and
MICHAEL THOMAS,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND DISMISSING COMPLAINT WITHOUT PREJUDICE**

This matter is before the Court on the report and recommendation of United States Magistrate Judge Charles E. Binder to dismiss the complaint. The case was referred to the magistrate judge on an order for general case management pursuant to 28 U.S.C. § 636(b) and E.D. Mich. LR 72.1. The magistrate judge issued his report on June 15, 2005 recommending that the case be *sua sponte* dismissed without prejudice for failure to serve process pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt # 3] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**.

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: July 8, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 8, 2005.

s/Carol J. Greyerbiehl

CAROL J. GREYERBIEHL